



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,744	12/09/2003	Michael S. MacConney	3191E-000043	5125

27572 7590 08/19/2005

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
----------	--------------

3618

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,744

Applicant(s)

MACCONNEY ET AL.

Examiner

Hau V Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) 2-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/26/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of group I, claims 1-7 in the reply filed on 7/13/2005 is acknowledged. The traversal is on the ground(s) that the subject matter defined within all the groups of claims are similar. Consequently, the field of each group should be essentially coextensive. Thus the burden on the Examiner will not be significant to maintain each group of claims in this application. This is not found persuasive because in the instant case, the combination as claimed does not require the particulars of the subcombination as claimed such as vehicle having governor system set forth in the combination claims 1-7 for it patentability.

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 4/26/2005 has been considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Otsu et al. (6,123,163) in view of Bauerle et al. (6,808,471).

Otsu et al. in figures 1-10, disclose a vehicle comprising a frame, a plurality of wheels (13, 14), an engine (61) supported on the frame. The engine has a throttle system. Otsu et al. also disclose a transmission (48) operably coupled between the engine and the plurality of wheels operable to transmit a driving force from the engine to at least one of the plurality of wheels. Otsu et al. also disclose a ground speed feedback shaft (as shown in figures 6a-6b) operably coupled with the transmission to provide a ground speed feedback torque in response to a ground speed of the vehicle. Otsu et al. also disclose an engine speed feedback shaft (73) operably coupled with the engine with an engine revolution number sensor (160) to provide an engine feedback torque in response to a revolution speed of the engine. Otsu et al. also disclose a ground speed governor system (169) operably coupled between the ground speed feedback shaft and the throttle system for limiting operation of the throttle system in response to the ground speed feedback torque. Otsu et al. fail to show an idle speed governor system.

Bauerle et al. in figures 1-4, teaches a methods and apparatus for providing security for electronically controlled cylinder activation and deactivation comprising a throttle system (22), an engine (12) and an acceleration pedal (23) including idle speed control. The throttle system is positioned in response to the engine torque reduction. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle of Otsu et al. with the methods and apparatus for providing

security for electronically controlled cylinder activation and deactivation having a throttle system as taught by Bauerle et al. in order to improve simplicity engine noise reduction.

5. Claims 6-7 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Otsu et al. (6,123,163) in view of Bauerle et al. (6,808,471) as applied to claim 1 above, and further in view of Houston (6,612,286).

The combination of Otsu et al. and Bauerle et al. disclose a ground speed system, but fail to show a governor arm, an accelerator cable and throttle cable.

Houston in figure 1, teaches a governor system comprising a ground speed governor arm (112) fixed for rotation with a ground speed feedback shaft (110), a throttle cable (28) and an accelerator cable (26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle of Otsu et al. in view of Bauerle et al. with the governor system having a governor arm, an accelerator cable and throttle cable as taught by Houston in order to limit a degree of throttle travel of a throttle as a function of rotational speed of a drive axle.

Regarding claim 7, House teaches a spring (116) for resiliently interconnecting the accelerator cable and the ground speed governor arm. The spring biases to enable balancing of the torque with the ground speed feedback torque.

Allowable Subject Matter

6. Claims 2-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7: The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smyth discloses a mechanic automatic transmission.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
8/16/05

Hau V Phan
Primary Examiner
Art Unit 3618